

Senate Bill No. 1724

Passed the Senate August 31, 2006

Secretary of the Senate

Passed the Assembly August 30, 2006

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2006, at _____ o'clock ____M.

Private Secretary of the Governor

Second enrollment

CHAPTER _____

An act to amend Section 10295.1 of the Public Contract Code, relating to the California State University.

LEGISLATIVE COUNSEL'S DIGEST

SB 1724, Runner. California State University.

Existing law prohibits, except under specified circumstances, a state department or agency, as defined, from contracting with a vendor, contractor, or an affiliate of a vendor or contractor, unless that vendor or contractor, and all of its affiliates that make sales for deliveries into California, are holders of a California seller's permit issued as prescribed. Existing law defines "state department or agency," for these purposes, to include every state office, department, division, bureau, board, commission, and the California State University, and to exclude the University of California, the Legislature, the courts, and any agency in the judicial branch of government.

This bill would also exclude the California State University from this prohibition.

The people of the State of California do enact as follows:

SECTION 1. Section 10295.1 of the Public Contract Code is amended to read:

10295.1. (a) A state department or agency shall not contract for the purchase of tangible personal property from a vendor, contractor, or an affiliate of a vendor or contractor, unless that vendor, contractor, and all of its affiliates that make sales for delivery into California are holders of a California seller's permit issued pursuant to Article 2 (commencing with Section 6066) of Chapter 2 of Part 1 of Division 2 of the Revenue and Taxation Code, or are holders of a certificate of registration issued pursuant to Section 6226 of the Revenue and Taxation Code. A vendor or contractor that sells tangible personal property to a state department or agency, and each affiliate of that vendor or contractor that makes sales for delivery into California, shall be regarded as a "retailer engaged in business in this state," and

shall be required to collect the California sales or use tax on all its sales into the state in accordance with Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code.

(b) Beginning on and after January 1, 2004, each vendor, contractor, or affiliate of a vendor or contractor that is offered a contract to do business with a state department or state agency shall submit to that state department or agency a copy, as applicable, of that retailer's seller's permit or certificate of registration, and a copy of each of the retailer's applicable affiliate's seller's permit or certificate of registration, as described in subdivision (a). This subdivision does not apply to a credit card purchase of goods of two thousand five hundred dollars (\$2,500) or less. The total amount of exemption authorized herein shall not exceed seven thousand five hundred dollars (\$7,500) per year for each company from which a state agency is purchasing goods by credit card. It shall be the responsibility of each state agency to monitor the use of this exemption and adhere to these restrictions on these purchases.

(c) A state department or state agency is exempted from the provisions of subdivision (a) if the executive director of that state department or agency, or his or her designee, makes a written finding that the contract is necessary to meet a compelling state interest.

(d) For the purposes of this section:

(1) "Affiliate of the vendor or contractor" means any person or entity that is controlled by, or is under common control of, a vendor or contractor through stock ownership or any other affiliation.

(2) "Compelling state interest" includes, but is not necessarily limited to, the following:

(A) Ensuring the provision of essential services.

(B) Ensuring the public health, safety, and welfare.

(C) Responding to an emergency, as defined in Section 1102.

(3) "State department or agency" means every state office, department, division, bureau, board, and commission, but does not include the University of California, the California State University, the Legislature, the courts, and any agency in the judicial branch of government.

Approved _____, 2006

Governor